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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,505	07/20/2001	Gilson Woo		4913

7590 08/26/2002

GILSON WOO
19708 BALAN ROAD
ROWLAND HEIGHTS, CA 91748

EXAMINER
VENIAMINOV, NIKITA R

ART UNIT	PAPER NUMBER
3736	

DATE MAILED: 08/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/909,505	WOO, GILSON	
	Examiner	Art Unit	
	Nikita R Veniaminov	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-31 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Objections

1. Claims 2, 4, 6, 13, 16 and 18 are objected to because of the following informalities: The phrase "The method of claim I" in line 1 should read "The method of claim 1". Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 1 it is unclear what Applicant intends to claim: "a total treating region to the trunk having a size of about 559 square inches, about 13" x 43"". With regard to claims 5-15 and 28 the phrase "wherein" in line 1 should read –further including-- .With regard to claim 6 by using the phrase "wherein applying the magnet then to the other selected area of the treating regions" in lines 2 and 3 it is unclear what "other selected area" Applicant intends to claim. With regard to claim 10 it is unclear how the limitation of "applying the magnet partially to at least one of the plurality of treating regions of the trunk of a person" can be done "concurrently", since concurrent application could only be done to at least two regions of the trunk of a person. Claims 13-15, 18 and 19 recite the limitation "the neck" in line

2. There is insufficient antecedent basis for this limitation in the claim; the phrase "head" in line 2 should read "a head". With regard to claim 20 it is unclear how the limitation of "applying magnet to the treating region" can be done "concurrently", since concurrent application could only be done to at least two regions of the trunk of a person. The phrase "magnet" in claim 20, line 1 should read "the magnet". Claims 20 and 21 recite the limitations "the subregional division lines" and "the trunk meridians" in line 3. There is insufficient antecedent basis for these limitations in the claims. With regard to claim 21 it is unclear how the limitation of "applying magnets to the treating region" can be done "concurrently", since concurrent application could only be done to at least two regions of the trunk of a person. In claim 22, line 2 the phrase "spaced apart one another" is unclear; the phrase "through out" in line 3 should read – throughout --. The phrase "band" in claim 31, line 2 should read "a band".

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 28 is rejected under 35 U.S.C. 101. A person's ability "to sense symptoms of healing and responses from ailing part of the body" is considered to be non-statutory subject matter, because one is unable to claim the human body. Corresponding by anything "sensed" from the human boy is non-statutory subject matter.

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lopez et al. (US 5,720,046) in view of Woo (US 5,529,569). Lopez et al. ('046) teach a method of treating and alleviating afflictions, ailments and diseases holistically by application of magnetism to a plurality of treating regions of the trunk, hands, head and neck (see abstract, Figures 3-5, 12, 14, 16a-16c and 19a), the method comprising designating a total treating region; providing magnet means having at least one north pole surface adapted for application to the plurality of treating regions of the trunk (see Figure 12 and column 8, lines 8-19), hand (see column 6, lines 5-60), head (see Figure 16a-16C and column 9, lines 32-56) and neck (see Figure 19a and column 10, lines 21-32); contacting the magnets directly to the treating regions of the trunk by using a proper band, wrapper or cover with magnets sewn-in or encased in any shape of form appropriate to fit the treating regions of the trunk of a person (see abstract and column 8, lines 7-18), but they do not teach a method of treating and alleviating afflictions, ailments and diseases holistically by application of magnetism to a plurality of treating regions of the trunk of a person being treating comprising applying a north pole surface of a magnet to at least one of a plurality of treating

regions of the trunk, the magnet having a size of ⅛" x ⅛" to 4"x18" to 13"x43"; maintaining the magnet in contact with at least one of the treating regions of the trunk for a period of 15 to 180 minutes to heal and relieve afflictions, wherein the total flux of the magnetic means applied to the at least one of the treating regions of the trunk being in the range from about 30Φ – 250,000Φ; repeating the application of the magnet for at least one additional period of time; repeating the time period for treatment at least once in a 24 hour period in an interval of about 2-10 hours in accordance with treatment process; applying the magnet to treating regions of the trunk of a person concurrently, wherein a total flux of the magnet applied to the treating regions of the trunk is substantially equal. However, Woo ('569) teaches a method of treating and alleviating pains and inflammation of human afflictions by application of a north pole surface of a magnet to at least one hand of the body of a person being treated comprising steps of maintaining the magnet in contact with said at least one hand for a period of from 30 minutes to about 2 hours to heal and relieve pain, the total flux of the magnetic means applied to at least one hand being in the range from about 5000Φ – 250,000Φ; wherein the total flux of the magnet means applied to each hand is substantially equal. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of treating and alleviating afflictions, ailments and diseases holistically by application of magnetism to a plurality of treating regions of the trunk, hands, head and neck of Lopez et al. ('046) by the method of treating and alleviating pains and inflammation of human afflictions of Woo

('569), since Lopez et al. ('046) teaches the method of treating the human trunk regions using articles of clothing with permanent magnets and Woo ('569) teaches the flux of the magnets required to perform such treatments. Further, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the magnets of Lopez et al. ('046) to use magnets having a size of ⅛" x ⅛" to 4"x18" to 13"x43", since it has generally been held to be within the skill level of the art to perform routine experimentation for implementing the magnets as claimed..

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,379,295 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims only differ

with regard to the plurality of treating regions of the person being treated, the size and the shape of the magnet to cover the treating regions. Claims of the Patent ('295) provide the method of treating and alleviating human afflictions, ailments and diseases holistically by application of magnetism to the plurality of treating regions of the head of the person being treated, designating at least six treating regions of the head having the total size of about 160 square inches, covering about 10"x16"; and the magnet having the size of ¼ x ¼ to 10"x16". With regard to the claims of the instant application, the claims specifies a method of treating and alleviating human afflictions, ailments and diseases holistically by application of magnetism to a plurality of treating regions of the trunk of the person being treated. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the head treatment parameters of the Patent ('295) for application of magnetism to areas suitable for trunk regions treatment, since it has generally been held to be within the skill level of medicine to use head treatment procedures on a person's trunk regions. Also, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine through routine experimentation an appropriate size of the trunk treating region; the shape and the size of the magnet for implementing the method, including the neck treating area size and the magnet having the size and shape within the range of size and shape Applicant provides in the claim.

9. Claims 1-31 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of

the copending Application No. 09/722,239. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims only differ with regard to the plurality of treating regions of the person being treated, the size and the shape of the magnet to cover the treating regions. Claims of the copending Application No. 09/722,239 provide the method of treating and alleviating human afflictions, ailments and diseases holistically by application of magnetism to the plurality of treating regions of the neck of the person being treated, designating at least six treating regions of the neck having the total size of about 48 square inches, covering all areas around the neck in 14" wide and 18" long; and the magnet having the size of ⅛" x ⅛" to 4"x18". With regard to the claims of the instant application, the claims specifies a method of treating and alleviating human afflictions, ailments and diseases holistically by application of magnetism to a plurality of treating regions of the trunk of the person being treated. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the neck treatment parameters of the copending Application No. 09/722,239 for application of magnetism to areas suitable for trunk regions treatment, since it is has generally been held to be within the skill level of medicine to use neck treatment procedures on a person's trunk regions. Also, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine through routine experimentation an appropriate size of the trunk treating region; the shape and the size of the magnet for implementing the method, including the neck treating area size and

the magnet having the size and shape within the range of size and shape Applicant provides in the claim.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Applicant is advised that should claims 16 and 18 be found allowable, claims 17 and 19 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gebran ('170); Lopez ('239); MacLean ('051); Davis ('395); Schurig et al. ('835); Zablotsky et al. ('624); Russell ('743); Markoll (302) and Epstein et al. ('361).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita R Veniaminov whose telephone number is (703) 605-0210. The examiner can normally be reached on Monday-Friday 8 A.M.-5 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric F Winakur can be reached on (703) 308-3940. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-0758 for regular communications and (703) 308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Nikita R Veniaminov
Examiner
Art Unit 3736

August 13, 2002

ERIC F. WINAKUR
PRIMARY EXAMINER